

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

MARJORIE HOLLAN,

Debtor.

Case No. 06-41122
Chapter 7
Judge Thomas J. Tucker

**ORDER DENYING DEBTOR'S MOTION TO
SET ASIDE CASE CLOSING WITHOUT DISCHARGE**

This matter is before the Court on Debtor's "Exparte Motion To Set Aside Case Closing Without Discharge," filed June 21, 2006 (Docket # 27). As stated in the "Notice of Chapter 7 Case Closed Without Discharge," filed on June 15, 2006, the Clerk of the Court closed this case "without entry of discharge as Debtor did not file Official Form 23, Debtor's Certification of Completion of Instructional Course Concerning Personal Financial Management."

Section 727(a)(11) of the Bankruptcy Code provides, in relevant part: "The Court shall grant the debtor a discharge, unless . . . after filing the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111[.]" Interim Fed.R.Bankr.P. 4004(c)(1)(H) provides: "In a chapter 7 case, on expiration of the time fixed for filing a complaint objecting to discharge and the time fixed for filing a motion to dismiss the case under Rule 1017(e), the court shall forthwith grant the discharge unless . . . the debtor has not filed with the court a statement regarding completion of a course in personal financial management as required by Rule 1007(b)(7)." Interim Fed.R.Bankr.P. 1007(b)(7)(c) provides that "[a]n individual debtor in a chapter 7 . . . case shall file a statement regarding completion of a course in personal financial management, prepared as prescribed by the appropriate form . . . within 45 days after the first date set for the meeting of creditors under § 341

of the Code in a chapter 7 case.” Advisory Committee Note to Interim Fed.R.Bankr.P.

4004(c)(1)(H) provides: “If a debtor fails to file the required statement regarding a personal financial management course, the clerk will close the bankruptcy case without the entry of the discharge.”

The first date set for the meeting of creditors in this case was March 9, 2006. That date was rescheduled to March 22, 2006. April 23, 2006 was 45 days after March 9, 2006. May 6, 2006 was 45 days after March 22, 2006. When the Clerk of the Court closed the case on June 15, 2006, Debtor had still not filed the required statement regarding a personal financial management course. On June 21, 2006, well after the deadline to do so had expired, and after the Clerk of the Court had properly closed the case, Debtor filed a document entitled “Certificate of Debtor Education.” To date, Debtor has not filed Official Form B 23 (“Debtor’s Certification of Completion of Instructional Course Concerning Personal Financial Management”).

If a debtor seeks entry of a discharge after a case has been closed without entry of a discharge due to the debtor’s failure to timely file a statement regarding a personal financial management course, the only remedy is to file a motion to reopen the case, which requires the payment of a filing fee. *See* Guideline 3 of the Bankruptcy Court’s Local Rules (Guidelines Relating to BAPCPA), which provides: “The clerk will not issue a discharge if the certificate required by Bankruptcy Rule 1007(b)(7) and (c)(new) is not timely filed. If the debtor files the certificate after the case is closed, the debtor must file a motion to reopen to request the entry of the discharge.”

The Clerk of the Court did not err in closing the case without entry of the discharge, due to the Debtor’s failure to file a statement regarding a personal financial management course. As

a result, Debtor must file a motion to reopen the case and pay the \$220 filing fee to obtain the relief she is requesting in this motion.

Accordingly,

IT IS ORDERED that Debtor's "Exparte Motion To Set Aside Case Closing Without Discharge," filed June 21, 2006 (Docket # 27), is DENIED without prejudice to Debtor filing a motion to reopen case.

Date: June 26, 2006

/s/ Thomas J. Tucker

Thomas J. Tucker

United States Bankruptcy Judge